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1 2 3		
4 5 6 7		
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10 11 12		
13	UNITED STATES	S DISTRICT COURT
14 15		LICT OF CALIFORNIA
16		E DIVISION
17	NORTEK AIR SOLUTIONS, LLC,	Case No. 5:14-cv-02919-BLF
18 19	Plaintiff and Counterclaim- Defendant, vs. ENERGY LABS INC., DMG CORPORATION,	VERDICT FORM
20 21 22	and DMG NORTH, INC.  Defendants and Counterclaim- Plaintiffs.	
<ul><li>23</li><li>24</li><li>25</li></ul>	·	
26 27 28		
۷٥	VERDICT FORM	Case No.: 5:14-cv-02919-BLF

When answering the following questions and filling out this Verdict Form, please follow the directions provided throughout the form. Your answer to each question must be unanimous. Some of the questions contain legal terms that are defined and explained in detail in the Jury Instructions. Please refer to the Jury Instructions if you are unsure about the meaning or usage of any legal term that appears in the questions below.

We, the jury, unanimously agree to the answers to the following questions and return them under the instructions of this court as our verdict in this case.

#### I. <u>INFRINGEMENT</u>

#### **QUESTION 1: DIRECT INFRINGEMENT (SAMSUNG AHQ)**

Has Nortek proven by a preponderance of the evidence that the Defendants listed in the table below directly infringed the listed claims of Nortek's Patents in connection with the Samsung AHQ job (Energy Labs Job # 7335)?

(An answer of "Yes" is a finding for Nortek. An answer of "No" is a finding for the applicable Defendant.)

	EnergyiLabs	DMG North
Patent 442 Claim 16	(1.1) Yes [] No []	(1.2) Yes [] No []
Patent :442 Claim 26	(1.3) Yes [] No []	(1.4) Yes [] No []
Patent 25I Claim 8	(1.5) Yes [] No []	(1.6) Yes [] No []
Patent 365 Claim 15	(1.7) Yes [] No []	(1.8) Yes [] No []
Patent 283 Claim 29	(1.9) Yes [] No []	(1.10) Yes [] No []
Patent: 086 Claim 40.	(1.11) Yes [] No []	(1.12) Yes [] No []

### QUESTION 2: INDIRECT INFRINGEMENT - INDUCEMENT (SAMSUNG AHQ)

Has Nortek proven by a preponderance of the evidence that the Defendants listed in the table below induced infringement of the listed claims of Nortek's Patents in connection with the Samsung AHQ job (Energy Labs Job # 7335)?

(An answer of "Yes" is a finding for Nortek. An answer of "No" is a finding for the applicable Defendant.)

	Energy Babs	DMG North
Patent '442 Claim 16	(2.1) Yes [] No []	(2.2) Yes [] No []
Patent 442 Claim 26	(2.3) Yes [] No []	(2.4) Yes [] No []
Patent 254 Claim 8.	(2.5) Yes [] No []	(2.6) Yes [] No []
Patent 365 Claim 15.	(2.7) Yes [] No []	(2.8) Yes [] No []
Patent 283 Claim 29	(2.9) Yes [] No []	(2.10) Yes [] No []
Patent 1775 Claim 8	(2.11) Yes [] No []	(2.12) Yes [] No []
Patent 086 Claim 40	(2.13) Yes [] No []	(2.14) Yes [] No []

1	QUESTION 3: INDIRECT INFRINGEMENT – CONTRIBUTORY INFRINGEMENT (SAMSUNG			
2	AHQ)			
3	Has Nortek proven by a preponderance of the evidence that the Defendants listed in the table			
4	below contributorily infringed the listed claims of Nortek's Patents in connection with the Samsung			
5	AHQ job (Energy Labs Job # 7335)?			
6	(An answer of "Yes" is a finding for Nortek. An answer of "No" is a finding for the applicable			
7	Defendant.)			
8	Energy Labs DMG North			
9				
10				
11				
12				
13	QUESTION 4: DIRECT INFRINGEMENT (CAMP PENDLETON NAVAL HOSPITAL)			
14	Has Nortek proven by a preponderance of the evidence that the Defendants listed in the table			
15	below directly infringed the listed claims of Nortek's '442 Patent in connection with the Camp			
16	Pendleton Naval Hospital job (Energy Labs Job # 6163)?			
17	(An answer of "Yes" is a finding for Nortek. An answer of "No" is a finding for the applicable			
18	Defendant.)			
19	Energy Laws DMG Corp.			
20				
21	Patent 442 Claim [6] (4.1) Yes [] No [] (4.2) Yes [] No []			
22	Patent 442 Claim 26: (4.3) Yes [] No [] (4.4) Yes [] No []			
23	Patent 442 Claim 26 (4.3) Yes [] No [] (4.4) Yes [] No []			
24				
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26				
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#### **QUESTION 5: INDIRECT INFRINGEMENT – INDUCEMENT (CAMP PENDLETON NAVAL** 2 HOSPITAL) Has Nortek proven by a preponderance of the evidence that the Defendants listed in the table 3 below induced infringement of the listed claims of Nortek's Patents in connection with the Camp 4 Pendleton Naval Hospital job (Energy Labs Job # 6163)? 5 (An answer of "Yes" is a finding for Nortek. An answer of "No" is a finding for the applicable 6 7 Defendant.) Energy Labs DMG Corp. 8 9 Patent :442 Glaim 16. (5.1) Yes [\_\_\_] No [\_\_\_] (5.2) Yes [\_\_\_] No [\_\_\_ 10 11 (5.3) Yes [\_\_\_] No [\_\_\_] (5.4) Yes [\_\_\_] No [\_\_\_] Patent 442 Claim 26 12 13 14 **OUESTION 6: DIRECT INFRINGEMENT (LAX DELTA TERMINAL 5)** 15 Has Nortek proven by a preponderance of the evidence that the Defendants listed in the table 16 below directly infringed the listed claim of Nortek's '283 Patent in connection with the LAX Delta 17 18 Terminal 5 job (Energy Labs Job # 6967)? (An answer of "Yes" is a finding for Nortek. An answer of "No" is a finding for the applicable 19 20 Defendant.) Energy Labs DMG Gorp. 21 22 (6.1) Yes [\_\_\_] No [\_\_\_] (6.2) Yes [\_\_\_] No [\_\_\_ Patent 283 Claim 29 23 24 25 26

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1	QUESTION 7: INDIRECT INFRINGEMENT - INDUCEMENT (LAX DELTA TERMINAL 5)				
2	Has Nortek proven by a preponderance of the evidence that the Defendants listed in the table				
3	below induced infringement	ent of the listed clai	ms of Nortek's Pate	nts in connection	with the LAX Delta
4	Terminal 5 job (Energy L	abs Job # 6967)?			
5	(An answer of "Ye	es" is a finding for	Nortek. An answer	of "No" is a findi	ng for the applicable
6	Defendant.)			•	
7	F. 1. 2. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1.	Energ	y Labs = " = "	<u>Popularian</u>	i Corp
8 9	Patent :283 Claim 29	(7.1) Yes [	] No [	(7.2) Yes [	_] No [
10					
11	QUESTION 8: DIRECT	INFRINGEMENT	(SANTA CLARA (	GATEWAY PHAS	<u>SE 2)</u>
12	Has Nortek prove	n by a preponderan	ce of the evidence the	hat the Defendants	listed in the table
13	below directly infringed t	he listed claims of	Nortek's Patents in	connection with th	e Santa Clara
14	Gateway Phase 2 job (End	ergy Labs Job # 70	07)?		
15	(An answer of "Y	es" is a finding for	Nortek. An answer	of "No" is a find	ing for the applicable
16	Defendant.)		* * * * * * * * * * * * * * * * * * *		2
17	a servera	Energ	y Labs 🚛	DMO	North
18 19	Patent 251 Glaim 8	(8.1) Yes [	_] No []	(8.2) Yes [	_] No [
20			1 [ / 1		1 N . [
21	Patent 365 Claim 15.	(8.3) Yes [	_] No []	(8.4) Y es [	
22	P.000				
23					
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#### **OUESTION 9: INDIRECT INFRINGEMENT - INDUCEMENT (SANTA CLARA GATEWAY** 1 PHASE 2) 2 Has Nortek proven by a preponderance of the evidence that the Defendants listed in the table 3 below induced infringement of the listed claims of Nortek's Patents in connection with the Santa Clara 4 Gateway Phase 2 job (Energy Labs Job # 7007)? 5 (An answer of "Yes" is a finding for Nortek. An answer of "No" is a finding for the applicable 6 7 Defendant.) 8 (9.1) Yes [\_\_\_\_] No [\_\_\_\_] (9.2) Yes [\_\_\_\_] No [\_\_\_\_ 9 Patent 251 Claim 8 10 11 (9.3) Yes [\_\_\_] No [\_\_\_] (9.4) Yes [\_\_\_] No [\_\_\_] Patent 365 Claim 15 12 13 14 OUESTION 10: DIRECT INFRINGEMENT (LAX TERMINAL 1) 15 Has Nortek proven by a preponderance of the evidence that the Defendants listed in the table 16 below directly infringed the listed claims of Nortek's Patents in connection with the LAX Terminal 1 17 job (Energy Labs Job # 8209)? (An answer of "Yes" is a finding for Nortek. An answer of "No" is a finding for the applicable 18 19 Defendant.) 20 Energy Labs 21 22 Patent 283 Claim 29 (10.1) Yes [\_\_\_] No [\_\_\_] | (10.2) Yes [\_\_\_] No [\_\_\_ 23 24 25 26

DMG Corp.

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#### **QUESTION 11: INDIRECT INFRINGEMENT - INDUCEMENT (LAX TERMINAL 1)**

Has Nortek proven by a preponderance of the evidence that the Defendants listed in the table below induced infringement of the listed claims of Nortek's Patents in connection with the LAX Terminal 1 job (Energy Labs Job # 8209)?

(An answer of "Yes" is a finding for Nortek. An answer of "No" is a finding for the applicable Defendant.)

		En	eigy Lal	S			DMG)	Sorp:	
Patent 283 Claim 29.	(11.1)	Yes [_	]	No [_		(11.2) Ye	s [	_] No	
- Patent 175 Claim 8	(11.3)	Yes [_	]	No [_	<u></u>	(11.4) Ye	s [	_] No	

# <u>QUESTION 12: INDIRECT INFRINGEMENT – CONTRIBUTORY INFRINGEMENT (LAX TERMINAL 1)</u>

Has Nortek proven by a preponderance of the evidence that the Defendants listed in the table below contributorily infringed the listed claims of Nortek's Patents in connection with the LAX Terminal 1 job (Energy Labs Job # 8209)?

(An answer of "Yes" is a finding for Nortek. An answer of "No" is a finding for the applicable Defendant.)

	Ener	gy Labs	, DMC	F.Corp.
Patent 175 Claim 8	(12.1) Yes [	_] No [	(12.2) Yes [	] No []

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1	II.	INVALIDITY				
2	QUESTION 13: INVALIDITY ('442 Patent, Claim 16)					
3	For each of the grounds listed below, have the Defendants proven by clear and convincing evidence that Claim 16 of the '442 Patent is invalid? (Answer separately for each ground)					
5	Answer "Yes" or "No." (An answer of "Yes" is a finding for <u>Defendants</u> . An answer of					
6		"No" is a finding for <b>Nortek.</b> )				
7		(13.1) Anticipated by the Governair Carolinas	V.	Ma		
8		Medical Center Installation	Yes	No		
9		(13.2) Anticipated by PACE Small Cabinet	Yes	No		
10		Fan Product	105			
11		(13.3) Anticipated by CLEANPAK Small Cabinet Fan Product	Yes	No		
12		Caomet Pan Floduct	<del></del>			
13	i.	(13.4) Anticipated by PACE Small Cabinet Fans (SCF) Air Handling Units Catalog	Yes	No		
14						
15						
16	<u>QUES</u>	TION 14: INVALIDITY ('442 Patent, Claim 26)				
17	For each of the grounds listed below, have the Defendants proven by clear and convincing evidence that Claim 26 of the '442 Patent is invalid? (Answer separately for each ground)					
18	Answer "Yes" or "No." (An answer of "Yes" is a finding for <u>Defendants</u> . An answer of					
19		"No" is a finding for Nortek.)				
20 21		(14.1) Rendered obvious by the PACE Small				
22		Cabinet Fan Product in view of the	Yes	No		
23		knowledge of a person of skill in the art				
24		(14.2) Rendered obvious by the CLEANPAK Small Cabinet Fan Product in view of the	Yes	No /		
25		knowledge of a person of skill in the art	1 00			
26		(14.3) Rendered obvious by PACE Small				
27		Cabinet Fans (SCF) Air Handling Units Catalog in view of the knowledge of a person	Yes	No		
28		of skill in the art	,			
- 11						

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1	QUESTION 15: INVALIDITY ('251 Patent, Claim 8)				
2	For each of the grounds listed below, have the Defendants proven by clear and convincing				
. 3	evidence that Claim 8 of the '251 Patent is invalid? (Answer separately for each ground)				
4	Answer "Yes" or "No." (An answer of "Yes" is a finding for <u>Defendants</u> . An answer of "No" is a finding for <u>Nortek.</u> )				
5					
6	(15.1) Rendered obvious by the PACE Small Cabinet Fan Product in view of the Yes No				
7	knowledge of a person of skill in the art				
8	(15.2) Anticipated by the Temtrol DHS				
9	Computer Room Installation  Yes No				
10					
11	QUESTION 16: INVALIDITY ('365 Patent, Claim 15)				
12	For each of the grounds listed below, have the Defendants proven by clear and convincing				
13	evidence that Claim 15 of the '365 Patent is invalid? (Answer separately for each ground)				
14	Answer "Yes" or "No." (An answer of "Yes" is a finding for <u>Defendants</u> . An answer of "No" is a finding for <u>Nortek.</u> )				
15					
16	(16.1) Anticipated by the Temtrol DHS Computer Room Installation  Yes No				
17					
18	(16.2) Rendered obvious by the PACE Small Cabinet Fan Product in view of the Yes No				
19	knowledge of a person of skill in the art				
20					
21	QUESTION 17: INVALIDITY ('086 Patent, Claim 40)				
22	For each of the grounds listed below, have the Defendants proven by clear and convincing				
23	evidence that Claim 40 of the '086 Patent is invalid? (Answer separately for each ground)				
24	Answer "Yes" or "No." (An answer of "Yes" is a finding for <u>Defendants</u> . An answer of "No" is a finding for <u>Nortek.</u> )				
25					
26	(17.1) Anticipated by the Temtrol DHS  Computer Room Installation  Yes  No				
27	Computer Room Installation				
28					

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1 2	(17.2) Rendered obvious by the PACE Small Cabinet Fan Product in view of the	Yes	No
3	knowledge of a person of skill in the art	•	
4	OUESTION 18: INVALIDITY ('283 Patent, Claim 29)		
5	For each of the grounds listed below, have the Delevidence that Claim 29 of the '283 Patent is invalid	fendants proven by cl	ear and convincing
6	· ·		
7	Answer "Yes" or "No." (An answer of "Yes" is "No" is a finding for Nortek.)	a finding for Defende	ants. An answer of
8			-
9	(18.1) Anticipated by Temtrol's DHS Computer Room Installation	Yes	No
10	(18.2) Rendered obvious by the PACE Small		
11	Cabinet Fan Product in view of the knowledge of a person of skill in the art	Yes	No
12	knowledge of a person of skill in the art		
13	(18.3) Rendered obvious by Governair's	Yes	No
14	Computer Associates Installation and Governair's U.S.D.A. Installation	1 es	140
15			
16	QUESTION 19: INVALIDITY ('175 Patent, Claim 8)		
17	For each of the grounds listed below, have the De- evidence that Claim 8 of the '175 Patent is invalid	fendants proven by cl ? (Answer separately	ear and convincing for each ground)
18	Answer "Yes" or "No." (An answer of "Yes" is	a finding for Defenda	ants. An answer of
19	"No" is a finding for Nortek.)		
20	(10.1) Auticipated by the Temprel DUS		
21	(19.1) Anticipated by the Temtrol DHS Computer Room Installation	Yes	No
22	(100) Auticipated by the Corresponding		
23	(19.2) Anticipated by the Governair Computer Associates Installation	Yes	No
24	CONTRACTOR OF THE STATE OF THE	,	
25	(19.3) Rendered obvious by the PACE Small Cabinet Fan Product in view of the	Yes	No
26	knowledge of a person of skill in the art	- <del></del>	*
27			
28			
-			

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Please Read Before You Proceed:

If you found any of the claims above both infringed and not invalid, proceed to answer the following questions in Sections III and IV. If you did not find any claims both infringed and not invalid, do not answer the questions in Section III or Section IV and proceed to the end of the form.

III. <u>DAMAGES</u>

**QUESTION 20: PRICE EROSION** 

If you find that Nortek has proven to a reasonable certainty that it discounted prices on the sales of its products as a result of Defendants' infringement, provide below the amount Nortek should receive as compensation for having to reduce its prices due to the infringement:

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#### IV. WILLFULNESS

#### **QUESTION 21: WILLFUL INFRINGEMENT (ENERGY LABS)**

Has Nortek proven by a preponderance of the evidence that Energy Labs willfully infringed the below patents?

Answer "Yes" or "No." (An answer of "Yes" is a finding for Nortek. An answer of "No" is a finding for Energy Labs.)

(21.1) 442 Patent	Yes [] No []
(21,2): 251 Patent	Yes [] No []
_(21.3); 365; Patent	Yes [] No []
-(24:4) 283 Patent	Yes [] No []
(21.5) 175 Patent	Yes [] No []
(21:6) 086 Patent	Yes [] No []

#### **QUESTION 22: WILLFUL INFRINGEMENT (DMG CORPORATION)**

Has Nortek proven by a preponderance of the evidence that DMG Corporation willfully infringed the below patents?

Answer "Yes" or "No." (An answer of "Yes" is a finding for Nortek. An answer of "No" is a finding for DMG Corp.)

(22.1) 442 Patent	Yes [	] No []
(22-2)-283 Patent	Yes [	] No []
(22.3) \$175 Patent	Yes [	] No []

#### QUESTION 23 WILLFUL INFRINGEMENT (DMG NORTH)

Has Nortek proven by a preponderance of the evidence that DMG North, Inc. willfully infringed the below patents?

Answer "Yes" or "No." (An answer of "Yes" is a finding for Nortek. An answer of "No" is a finding for DMG North.)

•	
(23.1): 442 Patent	Yes [] No []
(23 2): 251 Patent	Yes [] No []
(23.3)) 365 Patent	Yes [] No []
(23.4): 283 Patent	Yes [] No []
(23.5) 175 Patent	Yes [] No []
(23.6) 086 Patent	Yes [] No []

You have now reached the end of the verdict form and should review it to ensure it accurately reflects your unanimous determinations. The Presiding Juror should then sign and date the Verdict Form in the spaces below and notify the Security Guard that you have reached a verdict. The Presiding Juror should retain possession of the Verdict Form and bring it when the jury is brought back into the courtroom.

 $_{\text{DATED}}$   $\frac{(3)}{(3)}$   $\frac{(3)}{(3)}$   $\frac{(3)}{(3)}$ 

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